IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 18469 of 2007(W)

PETITIONER:

JOSEPH MANUEL, GENERAL MANAGER (HRD),
THE KERALA STATE CO-OP. FEDERATION FOR FISHERIES DEVELOPMENT LTD., (MATSYAFED), MATSYA BHAVAN, KURAVANKONAM,THIRUVANANTHAPURAM, R/AT TC 3/738/14, KAIRALI NAGAR, T.K.D.ROAD, MUTTADA, THIRUVANANTHAPURAM-695 025.

BY ADV. SRI.ANIL K.NARENDRAN

RESPONDENTS:

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1. THE STATE OF KERALA, REP. BY THE SECRETARY TO GOVERNMENT, FISHERIES & PORTS DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA STATE CO-OPERATIVE FEDERATION FOR FISHERIES DEVELOPMENT LTD. (MATSYAFED), MATSYA BHAVAN, KURAVANKONAM, THIRUVANANTHAPURAM-695 003, REP. BY ITS MANAGING DIRECTOR.

R1 BY SR. GOVT. PLEADER SRI. P.K. VIJAYAMOHAN, SC.
R2 BY ADV. SRI.P.K.VIJAYAMOHANAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.18469 of 2007

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Dated this the 24th day of July, 2007

JUDGMENT

Complaint of the petitioner is that the period of suspension undergone by him is not being regularised. Petitioner was placed under suspension by Exts.P2 and P3. Case of the petitioner is that petitioner was posted as General Manager of the second respondent. By Ext.P2 petitioner was placed under suspension. It was extended till finalisation of the investigation by the Vigilance and Anti Corruption Bureau. Petitioner submitted representation before the first respondent for reinstatement in service. A decision was directed to be taken by this court on the representation. According to the petitioner it was found that there was no case against the petitioner and the petitioner was reinstated in service without prejudice to the enquiry pending with the Vigilance Department and consequential action vide Ext.P6. Petitioner relied on Ext.P7 to contend that the first respondent has informed the second respondent that the Vigilance Department has informed that there is no documentary evidence or oral evidence except the petition to support the allegations against the officer. Petitioner

then submitted Ext.P8 before the Managing Director of the second respondent seeking regularisation of the period of suspension by treating the period as on duty. The Managing Director of the second respondent issued Ext.P9 and in Ext.P9 it is stated that as the issue is being included as para in the C&AG report, the petitioner's request will be considered based on the outcome of the said report.

2. Counter affidavit is filed, to which the petitioner has filed reply.

3. Government Pleader would submit that petitioner has not moved the first respondent. It is pointed out by counsel for the second respondent that the appointing authority is the first respondent Government. Petitioner relies on Rule 56B of Part I KSR to contend that consequent upon the reinstatement an order of regularisation has to follow.

The writ petition is disposed of as follows:

If the petitioner moves a representation before the first respondent seeking regularisation of the period of suspension by Exts.P2 and P3, a decision will be taken thereon by the first respondent

in accordance with law within a period of six weeks from the date of receipt of a copy of the representation with opportunity of hearing to the petitioner and the second respondent.

(K.M. JOSEPH, JUDGE)

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